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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1883~~3~~4

No. ~~382~~ 70

CHARLES A. SNYDER, CLAIMANT, PLAINTIFF IN ERROR,

vs.

THE UNITED STATES.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF LOUISIANA.

FILED OCTOBER 11, 1881.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1883.

No. 382.

CHARLES A. SNYDER, CLAIMANT, PLAINTIFF IN ERROR,

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INDEX.

	Original.	Print.
Information	1	1
Claim	5	3
Admission	7	3
Bond of release	7	3
Supplemental and amended information	10	4
Exception	16	6
Order—exception sustained	17	7
Answer	18	7
Hearing and continuance	21	8
Verdict	23	9
Motion for new trial	24	9
Order—new trial refused	25	9
Motion to vacate order refusing new trial	25	10
Order—motion refused	27	10
Motion in arrest of judgment	29	11
Order—disallowing motion in arrest of judgment	30	11
Judgment	30	11
Motion and order for writ of error	32	12
Bond for writ of error	33	12
Judge's and clerk's certificate	36	13
Writ of error	37	14
Citation	38	14
Proof of service of citation	39	15

JUDD & DETWEILER, PRINTERS, WASHINGTON.

1 *Information. Filed March 22d*, 1879.

UNITED STATES OF AMERICA:

Circuit Court of the United States, Fifth Circuit and Eastern District of Louisiana.

UNITED STATES
vs.
CONTENTS OF TOBACCO MANUFACTORY OF CHARLES A. SNYDER. } No. 8711.

Information. Int. Rev., R. S., §3372.

To the hon. the circuit court of the United States for the fifth circuit and district of Louisiana:

Now comes into court A. H. Leonard, attorney of the United States for the district of Louisiana herein, prosecuting in their behalf, and informs the court that heretofore, to wit, on the 15th day of March, A. D. 1879, on land, at No. 288 South Peters street, in the city of New Orleans, in the internal revenue collection district of Louisiana, in the district and State of Louisiana, in the tobacco manufactory of Charles A. Snyder, located at No. 288 South Peters street aforesaid, Morris Marks, collector of internal revenue
2 for the collection district aforesaid, did seize, and now holds in his possession in the said district of Louisiana, as forfeited to the United States, for causes hereinafter mentioned, the following property, to wit, one hydraulic press, with 8 retainers, seventeen screw presses, six sets 11-inch shapes, two sets 6-inch shapes, and one engine and boiler, and—

						Total pounds.
104	half boxes	manufactured	tobacco,	weight,	53 lbs.	5,512
162	" "	"	"	"	62 "	10,044
45	" "	"	"	"	63 "	2,835
14	" "	"	"	"	60 "	840
8	caddies	"	"	"	19 "	152
6	"	"	"	"	12 "	72
10	"	"	"	"	5 "	50
	Total lbs.					19,505

612 lbs. tobacco, in rolls, in process of manufacture.
200 lbs. leaf tobacco in drying-room.
1,250 " " " on floor, (stripped.)
3,910 " " " in casks.
1,595 " " " " " & on floor.
1,148 " " " " "

The same being raw material and manufactured and partly manufactured tobacco, machinery, tools, implements, apparatus, fixtures, barrels, boxes, and other materials, and found in the possession
3 of the said Charles A. Snyder, in his said manufactory.

For that the said Charles A. Snyder, being at the time of

the seizure aforesaid and prior thereto, to wit, in and during the months of June, July, and August, 1877, and in and during the months of July and August, 1878, a manufacturer of tobacco, and at and during the times aforesaid engaged in business as such manufacturer at his manufactory aforesaid, and then and there being by law required to keep a book in such form as might be prescribed by the Commissioner of Internal Revenue, and to enter therein daily an accurate account, among other things, of the quantity of each of the different kinds of tobacco purchased by him, did then and there make in said book, then and there kept by him in his said manufactory, false and fraudulent entries of the purchases made by him of a large quantity of leaf tobacco, to wit, one hogshead of leaf tobacco, containing 1,885 pounds, purchased by Beadles, Wood & Co., at New Orleans, on the 29th June, 1877; of two hogsheads of leaf tobacco, containing 2,890 pounds purchased of Beadles, Wood & Co., at New Orleans, on the 3d July, 1877; of one hogshead of leaf tobacco, containing 1,560 pounds, of E. H. Wilson, on the 1st July, 1878, at New Orleans; of fourteen hogsheads of leaf tobacco, containing 21,590 pounds, purchased of E. H. Wilson, at New Orleans, on the first of July, 1878; of one hogshead of leaf tobacco, containing 1,550 pounds, purchased of E. H. Wilson, at New Orleans, on the 17th of August, 1878, and of twenty-three hogsheads of leaf tobacco, containing 37,620 pounds, purchased of Kirkpatrick & Co., at New Orleans, on the 15 of August, 1877, contrary to the form of the statute of the United States in such case made and provided, by reason whereof, and by force of said statute, the said tobacco and other property so seized at time and place as aforesaid, the same being found in and being in the possession of the said Charles A. Snyder, in his said manufactory, at the time of seizure aforesaid, and in and during the month of June, July, and August, 1877, and in and during the months of July and August, 1878, at the time of the purchases aforesaid, and of the false and fraudulent entries thereof, by him made in his said book, and the said property so seized as aforesaid, then and on the several dates aforesaid, being raw material and manufactured tobacco, machinery, tools, implements, apparatus, fixtures, barrels, boxes, and other materials, became forfeited to the United States.

All and singular the premises are true.

And the said attorney prays the usual process and monition of the court, that the property aforesaid may be arrested, that all parties in interest may be cited, and, after due proceedings had, that the same be condemned as forfeited to the United States.

(Signed) A. H. LEONARD, *U. S. Att'y.*

Let process issue herein, as prayed for, and according to law.

March 22d, 1879.

(Signed) EDWARD C. BILLINGS, *Judge.*

Claim. Filed March 22d, 1879.

6 UNITED STATES
vs.
CONTENTS OF TOBACCO MANUFACTORY OF CHARLES A. SNYDER. } No. 8711.

And now comes Charles A. Snyder, claimant, and owner of all the property herein seized, and says that he is the sole, true, and *bona fide* owner of the property described in the information herein, and that no other person is the owner thereof. And he prays that said seized property be delivered to him upon his giving bond, with surety, in the sum of the value thereof.

(Signed) ROUSE & GRANT,
Att'ys for Snyder.

STATE & DIST. OF LA.:

Charles A. Snyder, being duly sworn, says that the statements made in his claim above are true.

(Signed) CHAS. A. SNYDER.

Subscribed and sworn to before me, this 22d day of March, 1879.

(Signed) F. A. WOOLFLEY,
Comm'r U. S. Circuit Court, Dist. of La.

7 *Admission. Filed March 22d*, 1879.

UNITED STATES
vs.
CONTENTS OF TOBACCO MANUFACTORY OF CHARLES A. SNYDER. } No. 8711.

It is admitted and agreed that the property seized in this case is worth six thousand dollars, and that the same may be released to the claimant on satisfactory bond in that amount without a formal order of court.

(Signed) J. W. GURLEY,
Ass't U. S. Att'y.

(Do.) CHAS. A. SNYDER.

NEW ORLEANS, 22 *March*, 1879.

Release Bond. Filed March 22d, 1879.

UNITED STATES OF AMERICA, *District of Louisiana:*

8 Know all men by these presents, that we, Charles A. Snyder, of New Orleans, claimant, and owner of the tobacco and machinery, &c., as principal, and Edward H. Wilson, and James H. Allen, as sureties, are held and firmly bound unto United States, libellant, in the sum of six thousand dollars, lawful money of the United States of America, for the payment whereof to the said United States or assigns, we, jointly and severally, bind ourselves, our heirs, executors, and administrators, firmly by these presents.

Witness our respective names and seals hereunto affixed by us, at New Orleans, this 22d day of March, 1879.

Whereas a warrant was lately issued out of the honorable circuit court of the United States of America for the fifth circuit court and district of Louisiana, at the suit of United States *vs.* Contents of Tobacco Manufactory of Chas. A. Snyder, and numbered 8711 of the docket of the said court, commanding the marshal to seize and take into his possession the said contents, which have been seized
9 accordingly, but has been released from said seizure and delivered to Chas. A. Snyder, the claimant and owner thereof, by reason of the signing, sealing, and delivery of these presents, said Charles A. Snyder having obtained leave of court to bond said property, and filed a claim thereto, which is now of record in the clerk's office of this court:

Now, the condition of the above obligation is such, that if the said claimant and sureties abide by all the orders, interlocutory or final, of the court, and pay the said libellant the amount awarded by the final decree rendered in the court to which the process is returnable, or in any appellate court, then the foregoing obligation is to be void, but otherwise shall remain in full force and virtue.

(Signed) CHAS. A. SNYDER. [L. S.]
(Do) E. H. WILSON. [L. S.]
(Do) JAMES H. ALLEN. [L. S.]

Signed, sealed, and delivered in the presence of—
(Signed) R. B. HOLLY.
(Do) H. C. MICHEL.

Approved.
(Signed) J. W. G.

10 *Supplemental & Amended Information. Filed April 21st*, 1879.

To the hon. the circuit court of the United States for the fifth circuit and district of Louisiana:

Now into court comes A. H. Leonard, attorney of the United States for the district of Louisiana, herein prosecuting in their behalf, and with leave of court, by way of amendment and supplement to the original information the case of The United States *vs.* Contents of Tobacco Manufactory of Charles A. Snyder, No. 8711 of the docket of this court, gives the court to understand and be informed, as further grounds of forfeiture of the property seized at time and place, as in said original information set forth.

1. For that the said Charles A. Snyder, on the 18th July, 1878, being a manufacturer of tobacco, and engaged in and carrying on business as such at his said manufactory, No. 288 South Peters street, in the said city of New Orleans, and then and there being by law required to keep a book, in form as prescribed by the Commis-
11 sioner of Internal Revenue, and to enter therein daily, among other things, the quantity of tobacco by him sold, did make, in said book then and there by him kept, false and fraudulent entry of the quantity of tobacco then and there by him sold, in this, that on the said 18th July, 1878, he, the said Charles A. Snyder, sold to C. B. Block & Co., of New Orleans, 257 pounds of plug tobacco, and to

Wackenbath & Joseph, of New Orleans, 1,515 pounds of plug tobacco, and entered on the said book 121 pounds of tobacco as being the entire quantity of tobacco by him sold on said 18th July, 1878, contrary to the form of the statutes of the United States in such case made and provided, by reason whereof and by force of the said statute all the property described in said original information seized at time and place aforesaid, the same being then and on the said 18th July, 1878, in the possession of the said Charles A. Snyder in his said manufactory, and being raw material and manufactured and partly manufactured tobacco, snuff, and machinery, tools, imple-
12 ments, apparatus, fixtures, boxes, barrels, and other materials, became forfeited to the United States.

2. For that the said Charles A. Snyder from the first day of August, 1878, to the 30th day of December, 1878, being engaged in the manufacture of tobacco, and carrying on business as such manufacture at his said manufactory No. 288 South Peters street, in the said city of New Orleans, and being then and there by law required to keep a book in form as prescribed by the Commissioner of Internal Revenue, and to enter therein daily, among other things, an accurate statement of the quantity of tobacco by him sold, did falsely and fraudulently neglect to make in said book true and accurate entries of the following sales of tobacco by him made, to wit: Of the sale of 304½ lbs. of plug tobacco to C. B. Block & Co., of New Orleans, on 3d August, 1878; of the sale of 283 lbs. of tobacco to C. B. Block & Co., of New Orleans, on the 30th September, 1878; of the sale of 1,578 lbs. of tobacco to C. B. Block & Co., on the
13 1st of November, 1878; of the sale of 311½ lbs. of tobacco to Schmidt & Ziegler, of New Orleans, on the 11th November, 1878; of the sale of 3,050 lbs. of tobacco to J. P. Sarrazin, of New Orleans, on the 12th of November, 1878; of the sale of 318 pounds of tobacco to C. B. Block & Co., of New Orleans, on the 27 November, 1878; of the sale of 79 lbs. of tobacco to P. E. Sarrazin, of New Orleans, on 27 November, 1878; of the sale of 613 lbs. of tobacco to G. Jacquet & Co., of New Orleans, on the 8 Dec'r, 1878, and of 249 lbs. of tobacco to Wackerbath & Joseph, of New Orleans, on the 16th day of December, 1878, the entries of the said sales were false, fraudulent, inaccurate, and insufficient, contrary to the form of the statute of the United States in such case made and provided, by reason whereof, and by force of the said statute, all the property described in said original information, and seized at time and place as therein stated, and being then and on each and every of the several dates of sale of tobacco herein set forth, in and
14 found in the possession of the said Charles A. Snyder, in his said manufactory, and the same then and there being raw material, manufactured and partly manufactured tobacco, snuff, machinery, tools, implements, apparatus, fixtures, boxes, barrels, and other raw materials, became forfeited to the United States.

3. That the said Charles A. Snyder, during the months of October and November, 1877, being a manufacturer of tobacco, and engaged in and carrying on business as such, at his said manufactory, No. 288 South Peters street, in said city of New Orleans, did,

on or about the 3d day of November, 1877, the exact date being to said attorney unknown to —— Requelme, of the city of New Orleans, without the proper internal revenue stamps denoting the tax thereon, contrary to the form of the statute of the United States in such case made and provided, by reason whereof and by force of said statute, all the property described in the original information being at the time of the said seizure thereof, and during the
15 months of October and November, 1877, in the possession of the said Charles A. Snyder, in his said manufactory, and being raw materials, manufactured and partly manufactured tobacco, snuff, materials, tools, implements, apparatus, fixtures, boxes, barrels, and other materials, became forfeited to the United States.

4. For that the said Charles A. Snyder, during the month of September, 1878, being a manufacturer of tobacco and engaged in and carrying on business as such, at his said tobacco manufactory, No. 288 South Peters street, in the city of New Orleans, did, on the —— and —— days of September, 1878, sell 121 pounds of tobacco and 233 pounds of tobacco, the exact date on which said tobacco was sold, and the names of the persons to whom the same was sold, being in character and denomination the stamps required, but being stamps which had been theretofore once used, contrary to the form of the statutes in such case made and provided, by reason whereof and by force of said statute all the property described in the original information being, at the time of seizure aforesaid, and during
16 the month of September, 1878, in the possession of the said Charles A. Snyder, in his said manufactory, and the same being raw material, manufactured tobacco, snuff, machinery, tools, implements, apparatus, fixtures, boxes, barrels, and other materials, became forfeited to the United States.

All and singular the premises are true.

And the said attorney prays, as in the original information, that the property seized be condemned as forfeited to the United States for causes set forth.

(Signed) A. H. LEONARD, *U. S. Att'y.*

Order.

Let this be filed. April 21, 1879.

(Signed) EDWARD C. BILLINGS, *Judge.*

Exception. Filed April 22d, 1879.

UNITED STATES
vs.
CONTENTS OF TOBACCO MANUFACTORY OF CHARLES A. SNYDER. } No. 8711.

17 Exception to information.

And now comes Charles A. Snyder, claimant herein, and reserving the right to further except and demur to the errors, uncertainties, and insufficiencies in said information contained, and to answer

herein if his exceptions be overruled peremptorily, excepts and demurs to said information upon the following grounds, viz:

Because said information does not set forth or allege any facts warranting the seizure or forfeiture of the property described therein.

Wherefore respondent prays that said information be dismissed at plaintiff's costs.

(Signed) ROUSE & GRANT,
Att'ys for Claimant.

Order Exception to 4th Count Sustained.

Extract from Minutes November Term, 1879.

NEW ORLEANS, SATURDAY, *December* 6, 1879.

Court met pursuant to adjournment. Present: Hon. E. C. Billings, district judge.

18 UNITED STATES *versus* CONTENTS OF TOBACCO MANUFACTORY OF CHAS. A. SNYDER. } No. 8711.

The exception herein came on for trial.

A. H. Leonard, U. S. att'y, for Government.

Rouse & Grant for exceptor.

And after hearing argument, it is ordered by the court that the exception to the 4th count of the amended information be sustained, with leave to the United States to amend said 4th count.

Answer. Filed January 12th, 1880.

In U. S. Circuit Court, Dist. of La.

UNITED STATES *vs.* CONTENTS OF TOBACCO MANUFACTORY OF CHARLES A. SNYDER. } No. 8711.

And now comes Charles A. Snyder, claimant and owner of the property herein seized, and for answer to the information and
19 amended information herein filed by the United States, says:

1st. He denies all and singular the allegations contained in said information and amended information, except such as are hereinafter expressly admitted.

2d. He admits the seizure of the contents of his manufactory, as in said information is alleged.

3d. He admits that he was engaged in manufacturing tobacco at the place alleged in said information, on and after the first day of July, 1878, and that prior thereto he was a partner in the firm of Snyder and Irwin, which was engaged in such manufacture.

4th. He denies that he made any false and fraudulent entry or entries of leaf tobacco purchased by him, as in said information is untruly alleged and pleaded.

5th. He denies that he made any false and fraudulent entry in his said book of the quantity of tobacco sold by him, in manner and form as is untruly alleged and pleaded in the first count of said amended information.

20 6th. He denies that he falsely and fraudulently neglected to make in his said book true and accurate entries of sale of tobacco by him made, as is untruly alleged and pleaded in the second count of said amended information, and he denies that said entries were either of them false and fraudulent.

7th. He denies that he sold to ——— Requelme any tobacco without the proper internal revenue stamps denoting the tax thereon.

Wherefore he prays that said information and amended information be dismissed with costs.

(Signed) ROUSE & GRANT,
Att'ys for Claimant.

STATE AND DISTRICT OF LOUISIANA:

Charles A. Snyder, being duly sworn, says that the statements made in the foregoing answer are true.

(Signed) CHAS. A. SNYDER.

Subscribed to and sworn before me, January —, 1880.

(Signed) T. V. COUPLAND, *Dy Clk.*

21 *Hearing and Continuance.*

Extract from the Minutes November Term, 1879.

NEW ORLEANS, WEDNESDAY, *January* 21, 1880.

Court met pursuant to adjournment. Present: Hon. W. B. Woods, circuit judge: Hon. E. C. Billings, district judge.

UNITED STATES
vs.
CONTENTS OF TOBACCO MANUFACTORY OF CHAS. A. SNYDER. } No. 8711.

This cause came on for trial—A. H. Leonard, U. S. att'y; Rouse and Grant, for respondent—when the following-named jurors were called and sworn to well and truly try the issues joined herein:

1, Ernest Surgi; 2, G. Chaperon; 3, Wm. Epps, Jr.; 4, L. D. Larrieu; 5, M. Collins; 6, J. Monroe; 7, J. V. Olivier; 8, G. Landreaux; 9, C. J. Adolphe; 10, G. Pottier; 11, E. M. Victor; 12, L. C. Lewis.

And the jury being complete, the trial proceeded, and

22 after hearing the pleadings and evidence, the cause was continued till to-morrow at 10 a. m., the jurors being cautioned by the court not to converse with any one upon the subject-matter before them.

23 *Verdict.*

Extract from the Minutes of January 22d, 1880.

UNITED STATES
vs.
CONTENTS TOBACCO MANUFACTORY OF CHAS. A. SNYDER. } No. 8711.

The court resumed the trial of this cause from yesterday, and the counsel for the parties, respectively, and the jurors in this cause being all present, the trial proceeded with; and after hearing further evidence and arguments of counsel, and receiving a charge from the court, the cause was submitted to jury, Eugene Surgi being appointed foreman thereof, and they retired to consider on their verdict.

After due deliberation, the said jury returned into court, and did then and there, through their said foreman, render and deliver the following verdict, to wit:

NEW ORLEANS, *January 22d*, 1880.

We, the jury, find a verdict for the Government, evaluating the goods and machinery seized at a sum of one thousand ($1,000) dollars.

E. SURGI, *Foreman.*

24 Whereupon it was ordered that the verdict be recorded.

Motion for a New Trial.

Extract from Minutes of January 23, 1880.

UNITED STATES
vs.
CONTENTS OF TOBACCO MANUFACTORY OF C. A. SNYDER. } No. 8711.

And now comes the claimant, Charles A. Snyder, and by his attorneys, Rouse and Grant, moves to set aside the verdict herein, and for a new trial of this cause, upon the following grounds, viz.:

1st. Because said verdict is contrary to the law and the evidence.

2d. Because said jury disregarded the instructions of the court given them upon the trial.

3d. Because said verdict is not responsive to the issues joined, and is general upon all the counts of the information, when no
25 evidence was offered as to some of said counts.

Wherefore it is ordered that said plaintiffs show cause on Saturday, the 31st instant, at 11 a. m., why said verdict should not be set aside and a new trial granted, and that the U. S. attorney be notified.

Order. New Trial refused.

Extract from Minutes of December 28th, 1880.

UNITED STATES
vs.
FACTORY OF C. A. SNYDER. } No. 8711.

Upon due consideration of the motion for a new trial heretofore

submitted to the court, it is ordered that said motion be denied *be denied* and a new trial refused.

Motion to Vacate Order refusing New Trial. Entered and filed January 6th, 1881.

26 In the U. S. Circuit Court, District of La.

UNITED STATES
vs.
CONTENTS TOBACCO MANUFACTORY OF C. A. SNYDER. } No. 8711.

On motion of Rouse & Grant, att'ys for Charles A. Snyder, claimant in the above-named case, and upon their suggesting to the court that when the motion for a new trial of this cause came on to be heard on the 24th of February, 1880, the motion was submitted without argument, at the suggestion of the court, because, as the claimant's counsel understood, the court was then satisfied that the motion ought to prevail, and because of the great pressure of business then before the court and afterwards, the court having expressed some doubt about the matter, the claimant's counsel desired to have the motion reinstated for argument, to which the court assented, but owing to the absence of the U. S. att'y the motion was not then reassigned, because no day could be fixed when he would be
27 present, and afterwards, owing to the continued absence of the U. S. att'y, said motion could not be heard, and so was not set down; and the court having overlooked the foregoing facts, on the 28th day of November, 1880, and during the present term of this hon. court overruled said motion, and the court having control over its judgments during the term, and willing that right and justice should be done in the premises, it is, therefore, ordered that the United States attorney show cause on Monday, the 10th instant, at 11 o'clock a. m., why the order made the 28th day of December, 1880, refusing the claimant's motion for a new trial in this cause should not be vacated and set aside, and his said motion reinstated and set down for argument.

Order Motion Refused.

Extract from Minutes April Term, 1881.

NEW ORLEANS, *Monday, April 25th*, 1881.

Court met pursuant to adjournment. Present: Hon. E. C. Billings, district judge.

28 UNITED STATES
vs.
CONTENTS OF TOBACCO MANUFACTORY OF CHAS. A. SNYDER. } No. 8711.

This cause came on to be heard, on the motion of the claimant to vacate order of 28th December, 1880, refusing a new trial herein, and was argued by counsel.

On consideration whereof, it is ordered that said motion be refused, and that said order of 28 December, 1880, prevail.

Motion in Arrest of Judgment. Entered and Filed April 26th, 1881.

UNITED STATES *vs.* CONTENTS OF TOBACCO MANUFACTORY OF CHARLES A. SNYDER.	No. 8711.

And now comes the claimant, Charles A. Snyder, and moves to arrest the judgment herein for the following causes, viz:

29 1st. Because the verdict of the jury herein is too vague and uncertain for the court to give judgment thereon.

2d. Because said verdict is not responsive to the issues joined herein.

3d. Because said verdict *in* general upon all the counts contained in the libel of information and amended libel of information *and amended libel of information*, when no proof was offered under some of them.

4th. Because said verdict is general upon all the counts in said information and amended information, and the 2d, 3d, and 4th counts of said amended information, and each of said counts, are insufficient in law, and do not, nor do either of them, allege facts which warrant a judgment of forfeiture herein of the property seized.

5th. Because the said verdict discloses the fact that the jury found that only a portion of the property seized was forfeited, but

30 not what portion was forfeited, and the said verdict being general, the court cannot determine therefrom what judgment to give in the premises.

Wherefore, for the causes aforesaid and for other manifest defects in the record herein appearing, the said claimant prays that judgment herein may be amended.

(Signed) ROUSE & GRANT,
Att'ys for Claimant.

Order Disallowing Same. Entered and Filed April 26th, 1881.

Entered and filed April 26th, 1881.

UNITED STATES *vs.* CONTENTS OF TOBACCO MANUFACTORY OF CHAS. A. SNYDER.	No. 8711.

Whereupon, and upon consideration of the said motion, it was ordered by the court that it be disallowed.

Judgment.

Extract from Judgment Book, November Term, 1879.

NEW ORLEANS, THURSDAY, *January 22d*, 1880.

31 Court met pursuant to adjournment. Present: Hon. Edward C. Billings, district judge.

UNITED STATES
vs.
CONTENTS OF TOBACCO MANUFACTORY OF CHARLES A. SNYDER. } No. 8711.

By reason of the verdict of the jury, and in accordance therewith, it is ordered, adjudged, and decreed that the contents of the tobacco manufactory of Charles A. Snyder, seized herein, fully described in the information on file, the value whereof having been fixed by the jury at $1,000, be, and the same are hereby, condemned as forfeited to the United States.

And whereas said property has been released from seizure and restored to the claimant and owner thereof, on giving bond conditioned as the law directs, it is further adjudged and decreed that Charles A. Snyder, claimant and owner of said property, as principal, and Edward H. Wilson and James H. Allen, as sureties on the release bond, be condemned, jointly and severally, to pay to
32 the United States the sum of one thousand dollars and costs of suit.

Judgment rendered January 22d, 1880.
Judgment signed December 29th, 1880.
(Signed) EDWARD C. BILLINGS, *Judge.*

Motion and Order for Writ of Error.

Extract from the Minutes of May 4th 1881.

UNITED STATES
vs.
CONTENTS OF TOBACCO MANUFACTORY OF CHAS. A. SNYDER. } No. 8711.

On motion of Rouse & Grant, attorneys for Charles A. Snyder, claimant herein, suggesting that said claimant is advised and believes that there is error in the verdict and judgment rendered herein the 22d day of January, 1880, and which became final the 25th of April, 1881, and that he desires to remove the said case to the Supreme Court of the United States by writ of error, it is ordered that said claimant be allowed a writ of error herein, returna-
33 ble to said Supreme Court on the first day of its next term, and that said writ operate as a supersedeas, upon said claimant giving bond with solvent surety in the sum of thirteen hundred dollars, conditioned as the law directs.

Bond for Writ of Error. Filed May 5th, 1881.

Know all men by these presents, that we, Charles A. Snyder, as principal, and Charles B. Block, as surety, are held and firmly bound unto the United States in the full and just sum of one thousand three hundred dollars, to be paid to the said United States, their certain attorney, executors, administrators, or assigns, to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these pres-

ents. Sealed with our seals, and dated this fifth day of May, in the year of our Lord one thousand eight hundred and eighty-one.

34 Whereas lately, at a circuit court of the United States, fifth judicial circuit, holding sessions in and for the eastern district of Louisiana, in a suit depending in said circuit court, wherein the United States is plaintiff and The Contents of the Tobacco Manufactory of Charles A. Snyder, defendant, judgment was rendered against the contents of said tobacco manufactory, Charles A. Snyder, claimant, defendant, and the said claimant having obtained a writ of error, and filed a copy thereof in the clerk's office of the said circuit court, to reverse the judgment in the aforesaid suit, and a citation directed to the said United States, admonishing them to be and appear at a Supreme Court of the United States, to be holden at Washington the second Monday of October next.

Now the condition of the above obligation is such, that if the said Charles A. Snyder, claimant, shall prosecute his writ to effect, and answer all damages and cost if he fail to make his plea good, then the above obligation to be void, else to remain in full force

35 and virtue.

(Signed) CHAS. A. SNYDER. [L. S.]
(Do.) CHS. B. BLOCK. [L. S.]

UNITED STATES OF AMERICA, }
District of Louisiana, } *ss:*

Personally appeared Charles B. Block, who, being duly sworn, deposes and says that he is the surety on the within bond; that he resides in the city of New Orleans, Louisiana, and is worth the full sum of thirteen hundred dollars over and above all his debts and liabilities and property exempt from execution.

(Signed) CHAS. B. BLOCK.

Subscribed and sworn before me, this 5th day of May, 1881.
(Signed) F. A. WOOLFLEY,
Commissioner U. S. Circuit Court, Eastern District of Louisiana.

Approved.
(Signed) EDWARD C. BILLINGS, *Judge.*

36 UNITED STATES OF AMERICA:

Circuit Court of the United States, Fifth Circuit and Eastern District of Louisiana.

CLERK'S OFFICE.

I, Francis A. Woolfley, clerk of the circuit court of the United States for the fifth circuit and district of Louisiana, do hereby certify that the foregoing 35 pages contain and form a full, complete, true, and perfect transcript of the record and proceedings had on the trial of the case of United States *versus* Contents of Tobacco Manufactory of Charles A. Snyder, No. 8711 of the docket of the said court.

Witness my hand and the seal of said court, at the city of New Orleans, this 18th day of August, A. D. 1881.

[SEAL.] F. A. WOOLFLEY, *Clerk.*

I, Edward C. Billings, United States judge for the district of Louisiana, do certify that Francis A. Woolfley, whose name is signed to the above certificate as clerk of the circuit court of the United States for the fifth circuit and eastern district of Louisiana, was, at the time of signing said certificate, and is now, the clerk of said court; that said certificate is in due form of law, and that full faith and credit are due to his official attestations as such clerk.

Given under my hand, at the city of New Orleans, in said district, this 18th day of August, A. D. 1881.

EDWARD C. BILLINGS, *Judge.*

37 UNITED STATES OF AMERICA, *ss:*

The President of the United States to the honorable the judges of the circuit court of the United States in and for the fifth circuit, and holding sessions for the district of Louisiana, Greeting:

Because, in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said circuit court, before you, or some of you, between the United States and the Contents of Tobacco Manufactory of Charles A. Snyder, a manifest error hath happened, to the great damage of the said Charles A. Snyder, claimant, as by his complaint appears.

We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington, on the second Monday of October next, in the said Supreme Court, to be then and there held; that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right and according to the laws and customs of the United States should be done.

Witness the Honorable Morrison R. Waite, Chief Justice of the said Supreme Court of the United States, this 4th day of May, in the year of our Lord one thousand eight hundred and eighty-one.

[SEAL.] F. A. WOOLFLEY,
Clerk of the United States Circuit Court
for the District of Louisiana.

Endorsed: United States circuit court. No. 8711. Charles A. Snyder, claimant and plaintiff in error, *versus* United States, defendant in error. Writ of error. Filed May 4th, 1881. T. V. Coupland, d'y clerk.

38 THE UNITED STATES OF AMERICA:

Circuit Court of the United States, Eastern District of Louisiana.

The President of the United States to A. H. Leonard, United States attorney for the eastern district of Louisiana, Greeting:

You are hereby cited and admonished to be and appear at a Su-

preme Court of the United States, to be holden at the city of Washington, on the second Monday of October next, pursuant to a motion and order for writ of error filed in the clerk's office of the circuit court of the United States for the fifth circuit and eastern district of Louisiana, wherein the Contents of Tobacco Manufactory of Charles A. Snyder is plaintiff in error and you are defendant in error, to show cause, if any there be, why the judgment against the said Contents of Tobacco Manufactory of Charles A. Snyder, as in said motion and order for writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, this 7th day of July, in the year of our Lord one thousand eight hundred and eighty-one.

EDWARD C. BILLINGS, *Judge.*

39 Endorsed: United States circuit court. No. 8711. Contents of Tobacco Manufactory of Charles A. Snyder, plaintiff in error, *vs.* United States, defendant in error. Citation. Marshal's return: Re'd New Orleans, July 7th, 1881, and on the same day, month, and year, I served a true copy of the within citation in error on the United States, defendant in error, by handing the same to Albert H. Leonard, U. S. attorney, in person, in his office, in the city of New Orleans. July 7th, 1881. Jesse Wharton, d'y U. S. marshal.

Personally appeared before me, Jesse Wharton, a deputy U. S. marshal for the eastern district of Louisiana, and makes oath that he served a copy of the within citation in error on the day, month, and year as stated in his official return. Jesse Wharton, d'y U. S. marshal for eastern dist. of La. Subscribed and sworn before me, July 7, 1881. F. A. Woolfley, commissioner United States circuit court, eastern district of Louisiana.

Endorsed on cover: Louisiana C. C. U. S. No. 382. Charles A. Snyder, claimant, plaintiff in error, *vs.* The United States. Filed October 11, 1881.

112-216

Supreme Court of the United States.

OCTOBER TERM, 1884

No. ~~200~~ 70

CHAS. A. SYNDER, PLAINTIFF IN ERROR,

versus

THE UNITED STATES, DEFENDANTS IN ERROR.

Brief on Behalf of Plaintiff in Error.

J. D. ROUSE,
WILLIAM GRANT,
Attorneys for Plaintiff in Error.

E. F. Hansell, Stationer and Printer, 30 Camp Street, New Orleans.

Supreme Court of the United States.

OCTOBER TERM, 1884

No. ~~882~~ 70

CHAS. A. SYNDER, PLAINTIFF IN ERROR,

versus

THE UNITED STATES, DEFENDANTS IN ERROR.

Brief on Behalf of Plaintiff in Error.

STATEMENT OF THE CASE.

The contents of the tobacco manufactory of Snyder were seized and proceeded against by information for forfeiture for alleged violations by him of the revenue laws. The property was released to him upon bond for the value thereof, which was fixed by agreement at $6000 (record, page 3). The original information contained but a single count, but was afterwards amended by filing four other counts (record, page 4). To the information as amended the claimant filed an exception—equivalent to a general demurrer—that said information did not set forth or allege any facts warranting the seizure or forfeiture of said property. Record, page 6.

The exception was maintained as to the fourth count of the amended information (record, page 7), and overruled as to the others. An answer was filed and trial had by jury, who found "a verdict for the government, *evaluating* the goods and machinery seized at a sum of one thousand dollars." Record, page 9.

Claimant's motion for a new trial being refused, he moved to arrest the judgment because the verdict is vague and uncertain; not responsive to the issues joined; is *general* upon all the counts in the information when several of them are fatally defective; and because the jury found that only a part, but not what part, of the property seized was forfeited. Record, page 11.

The motion was denied, judgment was entered, and the claimant prosecuted this writ of error.

ASSIGNMENT OF ERRORS.

1. The court erred in overruling the claimant's exception.

2. The court erred in refusing to arrest the judgment.

3. The court erred in giving judgment upon the verdict.

ARGUMENT.

I

The original information (page 1) alleges that claimant made false and fraudulent entries of leaf tobacco purchased by him from parties named, but

does not allege the *time* when such entries were made. The forfeiture is claimed under the provisions of section 3372, Revised Statutes, and extends only to the things mentioned, which are in possession of the manufacturer at the time the offence is committed. Time was therefore material. It was a traversable fact and should have been alleged. Gould's Pleadings, chap. 3, section 63.

The second and third counts of the amended information are also defective in this respect.

Said second count charges that the claimant "did falsely and fraudulently neglect to make, in the book required by law to be kept by him, true and accurate entries" of several sales of tobacco at different times set forth in the count. It also charges that the "entries of said sales were false, fraudulent, inaccurate and insufficient."

Under what provision of law and for what offence a forfeiture is claimed in this count we are unable to determine. If it were intended in the opening charge, as it seems probable, to allege an offence under the provisions of section 3358, Revised Statutes, it should have been averred that the claimant "*wilfully* neglected to keep the account" therein mentioned; whereas the averment is that he kept the account, but in the opinion of the pleader it was false, fraudulent, inaccurate and insufficient. Section 3358 does not impose a forfeiture for the offences therein defined.

If it were intended to charge an offence under section 3372 it does not appear in what respect the entries were either false, fraudulent, inaccurate or insufficient. We have only the opinion of the pleader that they were so. The claimant could not possibly know what fact in the mind of the pleader led to his conclusions, nor what accusation he was called upon to meet That the rules of pleading require facts to be averred, and not legal conclusions, needs only to be stated.

The third count of the amended information charges that the claimant, at a time unknown, sold a large, but unknown quantity of tobacco, without the proper internal revenue stamps denoting the tax thereon.

It is not alleged that the tobacco was delivered or removed, either from the place where made or from a bonded warehouse, without the stamps. This court has sanctioned sales and resales of manufactured tobacco in bonded warehouse before stamps were affixed. Jones vs. VanBenthuysen 103 U. S. 89.

Non constat that stamps denoting the tax thereon would ever be required to be affixed, because it might have been exported, without payment of tax. The averment of time was also here material, because it does not appear that the sale was not made at a time when no tax accrued thereon. It is not even alleged that it was manufactured tobacco, and, if it were not, it was not subject to tax.

We would waste words to argue the matter—the insufficiency of this count is so manifest.

The exception to these counts should have been maintained.

II.

A *general* verdict was rendered upon all the counts of the information, several of which we have shown to be bad. It is elementary that no judgment can be properly entered in such case. Chitty says: "If the jury find *entire* damages on all the counts the judgment must be entire; in which case, if one of the counts be insufficient, judgment will be arrested, or a writ of error be substantiable, and the judgment will be arrested in toto, and no *venire de novo* awarded." 1 Chitty's Pl. 411.

Gould lays down the same rule, and adduces this reason: "For it is impossible for the court, judging, as it must, from the record alone, to discover on which count the damages were assessed, or what proportion of them may have been awarded on the one or on the other; and the jury, as the law presumes, are as likely to have awarded them on a bad count as on a good one." Gould's Pl. chap. x, sec. 58, p. 523.

The rule was followed in Hambleton vs Veere, and in a note to that case Sergeant Williams says: "It is a settled rule that where there are several counts, and a verdict is entered generally on all the counts, and entire damages are given, and one count

is bad, it is fatal, and judgment shall be arrested.'' 2 Saunders Report (2 Am. from 3d London edition), page 171, note 1, page 171 a. And he cites the following cases in support of the rule: Grant vs. Astle, Douglas 730 (in which Lord Mansfield declares the rule to be well settled, and followed it, although he disapproved of it); Trevor vs. Wall, 1 Term Rep., page 151; Hancock vs; Haywood, 3 Term Rep., page 435; Holt vs. Scholefield, 6 Term, Rep., page 691; 2 Cro. Eliz., 329; Cro. Car., 236, 237, 327, 328; 2 Bac. Abr., Damages, D. 3; Lynn vs. Bruce, 2 H. Blackstone, Rep., page 318. The following American cases uphold the rule: Stevenson vs. Hayden, 2 Mass., Rep., page 406; Barnes vs, Hurd, 11 Mass., page 59; Dryden vs. Dryden, 9 Pick. 546; Nelson vs. Ford. 5 Ohio 300; Subert vs. Allen, 61 Mo. 482; Clark vs. Hannibal R. R. Co., 36 Mo. 202; Kline vs. Wood, 9 Serg. & R. 294; 11 Cal. Rep., 258; 30 Cal. Rep., 486; 5 Cow. 505; 2 How. (Miss.) 233; 1 Caines 347; 5 Greenleaf 446; and many others.

In Westbrook vs. VanAnken, 5 N. J. L. (2 Smith) 478, it was held that in an action to recover penalties for *several* violations of law, the verdict must specify the particular offences for which they are given.

That the refusal of the court to arrest the judgment in this case was error, is demonstrated.

III.

The insufficiency of the verdict to support the judgment is manifest. It is uncertain, because of the use of a word unknown to the language and without any legal meaning. If it has any meaning it is a special verdict simply finding the value of the property seized.

The judgment entered upon the verdict should be reversed, and the case remanded, with directions to arrest the same.

Respectfully submitted,

J. D. ROUSE.

WILLIAM GRANT,

Attorneys for Plaintiffs in Error.

112-210

In the Supreme Court of the United States

OCTOBER TERM, 1884.

CHARLES A. SNYDER, CLAIMANT,
plaintiff in error
vs.
THE UNITED STATES.
} No. 70.

BRIEF FOR THE UNITED STATES.

In the Supreme Court of the United States.

OCTOBER TERM, 1884.

CHARLES A. SNYDER, CLAIMANT, plaintiff in error, *vs.* THE UNITED STATES. } No. 70.

BRIEF FOR THE UNITED STATES.

This is an information filed under section 3372 Rev. Stat. to enforce the forfeiture of machinery and merchandise of the claimant, a tobacco manufacturer, for divers violations of the internal-revenue law.

The jury found for the Government, and assessed the value of the property seized at $1,000, and there was judgment accordingly.

ARGUMENT.

It is sought to reverse this judgment on the grounds (1) that, as *some* of the counts of the information are bad, and the verdict was general, the court was without authority to enter judgment, seeing that it was impossible

for the court to say whether the damages were assessed on the good or the bad counts; and (2) that judgment should not have been entered, because of uncertainty in the verdict.

Inasmuch as it is substantially admitted in the brief that the first count of the amended information is valid, it is unnecessary to notice the exception or demurrer to the original and amended informations as entireties since the admitted good count was sufficient to entitle the United States to judgment in chief, supposing, for the sake of argument, the other counts to be radically defective, as is contended.

Taking the case of the Government at its worst, and as contended for on the other side, namely, that "several" of the counts in the information are bad, does it follow that judgment was improperly entered on the general verdict on all the counts?

No doubt the general rule is, as contended, that judgment cannot be properly entered on a verdict finding *entire damages* on several counts, some of which are bad, because the court cannot know that the damages were not assessed on the bad counts, but we respectfully submit that the rule has no application to cases like the one at bar, where the *same damages must necessarily have been assessed on each one of the counts.* Here there was but ONE SEIZURE, *and the forfeiture claimed is the penalty for each and all the infractions of law set out in the several counts.*

The damages found are simply the equivalent of the property seized, which was delivered to the plaintiff in error at his instance, and on his giving bond with security. It is, therefore, obvious enough that whether the verdict

was on a good or bad count, or on all the counts together, the finding of the jury as to damages must have been the same, necessarily. If it had been possible for different findings to be made under the several counts the law invoked by the plaintiff in error might be applicable, but it was not possible, as we have shown, and therefore that law has no application.

All the offenses laid in the information fall within section 3372, Rev. Stat., and the *penalty for each of them* is the forfeiture of all property of the description seized and described in the information.

We will now consider the objections urged against those of the counts whose sufficiency is challenged.

The original information, consisting of a single count, charges that the claimant made several false entries touching tobacco purchased by him. The objection to this count is, that it fails to specify the time at which the entries were made. The ground on which this objection proceeds, is that the omitted averments as to time are material and would be traversable, for the reason that the forfeiture only extends to the property in the manufacturer's hands when the offense was committed.

This, however, is a mistaken view of the law, which makes the forfeiture operate on *all property found* in the manufacturer's possession, regardless of when it got there (section 3372). The view insisted on would render the statute a dead letter, seeing that it would seldom happen that Government was able to prove what property was on hand when the offense was committed. Reference to section

3456 will make it still clearer that such was the intention of Congress.

But we deny that the *precise time*, if laid, would be traversable, supposing the reading of the law insisted on to be correct, and submit that a traverse *so taken* would raise an immaterial issue, since time need not be proved *as laid* in such a case (Gould Pl., Ch. 3, section 64).

The objection to the second count of the amended information, that it does not aver wherein the entries stated are false is not maintainable. Such particularity would subject the Government to the constant danger of variance without serving any practical good. In United States *vs.* Simmons (96 U. S., p. 360) it was held that it was not necessary, in an information charging that the defendant carried on a distillery with intent to defraud the United States of the tax on spirits, to state the particular means by which the fraud was effected.

The third count of the amended information, which avers a sale of tobacco without the required stamps, is that it does not state that the tobacco sold was actually removed, seeing that it might have been in a bonded warehouse when sold. This, of course, is matter of defense, and no more needed to be stated than that the delinquent manufacturer was *compos mentis*. So, also, if the sale was made before the law imposing the tax was passed, a case supposed, it is matter of defense. It would be endless if a plaintiff had to negative all possible defenses in stating his case.

The remaining assignment of error, that the verdict is uncertain because of the use by the jury of the term "evaluating," a word unknown to the language, we

submit that there is no doubt as to the meaning of the jury, which, evidently, used the word *evaluating* for *valuing*. The verdict is in these words: "We, the jury, find a verdict for the Government, evaluating the goods and machinery seized at a sum of $1,000.

We respectfully submit that the judgment must be affirmed.

WM. A. MAURY,
Assistant Attorney-General.